

SPENCER COUNTY BOARD OF COMMISSIONERS

ORDINANCE NO. 1999-01

UTILITY ORDINANCE

1. Permits to allow work within the county road right-of-way shall be submitted to the County Highway Engineer and Board of Commissioners no later than one week prior to the next scheduled Commissioners meeting. The Board of Commissioners meetings are held on the first Monday and the third Tuesday of each month.
2. Prior to commencement of the proposed work within the road right-of-way, all applicants shall be required to give a minimum of 24 hours and a maximum of 72 hours notification prior to beginning of work.
3. Permit Bonding Requirements:

- a. All bonds shall name the "Board of Spencer County Commissioners, Spencer County, Indiana" as Beneficiary of the bond and shall run for a minimum of one year. Certificate of insurance is not acceptable for bonding purposes. The bond must name the Board of Commissioners exclusively and not be subordinate to any other claims against the bond. The Board of Commissioners will set the bond amount: In general, the following are minimum bond amounts that will be required by the Board of Commissioners, however, where there is a higher risk to county infrastructure, or the permitted work is much larger or complex than normal permitted work, the Board of Commissioners reserve the right to increase the bond requirement after reviewing the application for permit and before approving the permit. The minimum bonding amounts are as follows:

Open Road Cut.....	\$10,000 per location
Underground construction, grading, trenching or excavation	
Parallel to the road.....	\$5,000 per mile or fraction of mile
Push or bore.....	\$5,000 per push or bore
Placement/removal of poles/overhead lines.....	\$5,000 per mile or fraction of mile
Tap pit (including a directly associated push or bore).....	\$5,000 per tap pit
Closure of County Road.....	\$1,000 per closure
House moving.....	\$30,000 per move
Vehicle weight restriction exemption.....	\$30,000 per permit
Maintenance bonds.....	Equal to the initial permit bond amount

The Board of Commissioners will allow applicants who intend to file for multiple permits to have an annual permit bond for utility work in county right-of-way. The minimum annual permit bond amount requirement is currently \$25,000. The annual permit bond shall be written so that it automatically renews, unless the surety gives a written notice 60 days prior to the annual expiration date. The written notice MUST be by certified mail to the Spencer County Board of Commissioners, ATTN: County Auditor. At the discretion of the County Commissioners, an annual permit bond may be allowed for house moving and vehicle weight restrictions in a minimum amount of \$100,000.

1. Traffic Control Standards

Anyone performing work within the county road right-of-way must conform with the requirements set out in the latest edition of the Indiana Manual on Uniform Traffic Control Devices or the latest edition of the Handbook for Traffic Control in Construction and Maintenance Areas which is published by HERPICC at Purdue University. The traffic control procedures must be followed even if a permit is not required for work in the right-of-way. A permit holder must also provide all traffic control as set out in the conditions of the permit. A road must not be completely closed to traffic at any time unless it has been requested as a part of the permit and the Board of Commissioners for Spencer County have approved a traffic detour plan. When working on a low volume road, the following guidelines may be used to determine if flaggers are not required on the project.

GUIDELINES FOR USE OF FLAGGERS BY UTILITIES
AND CONTRACTORS ON SPENCER COUNTY ROADS

When traffic lane is fully or partially obstructed by a maintenance or construction operation, a flagman or flagmen will not be required only when all of the following are met:

1. The ADT of the given section of road is less than 400 vehicles per day. If the ADT is not on record at the Spencer County Highway Engineering Department, the County Highway Engineer shall determine if this criteria is met, and:
2. The work zone on any road (except a local residential street) must be more than 400 feet from an intersection. On local residential streets the work zone must be greater than 100 feet from an intersection, and:
3. Motorists in both directions can see approaching motorist from the opposite direction with no sight obstruction. In order for a vehicle to stop, this means that the motorists shall have an unobstructed view from "d" feet from their end of the work zone to "d" feet from the end of the work zone, and;

<u>Posted Speed</u>	<u>d (feet)</u>
20	310
25	370
30	430
35	495
40	555
45	615
50	670
55	755

d= length of maximum # of cars in storage + distance required
for driver to react + distance required for vehicle to stop

4. The work activity does not create congestion or backup of over 5 vehicles at any time.

These shall be increased for wet pavement, gravel or on descending grades.

** Use 55 MPH if not posted

***These are guidelines based on the Handbook for Traffic Control- HERPICC, the Indiana Manual on Uniform Traffic Control Devices- 1988 IDOH and the Handbook of Traffic Control Practices for Low-Volume Roads in Indiana- HERPICC 1984. These are only guidelines and as specified in the manuals, good judgment should be used in determining when flagmen should be used but may not be required by these guidelines.

NOTE: The work zone shall include all cones making the taper protecting the actual work area. Traffic control devices, placement of traffic control devices and requirements for flaggers (including clothing, procedures and locations) shall be detailed in the HERPICC- Handbook for Traffic Control in Construction and Maintenance Areas. A lane shall be considered partially obstructed when a 10 foot lane for each direction of traffic can be maintained.

4. STANDARD PERMIT CONDITIONS FOR POLE LINES AND UNDERGROUND CABLES

UTILITY LINES

Due to widespread inconsistencies in the location and depth of buried cables, buried pipes and pole lines, these provisions will be standard condition of approval of most all utility permits where we have a right-of-way less than the recommended county thoroughfare plan right-of-way. Plans should reflect these requirements when submitted for permit approval. These requirements are necessary due to the limited right-of-way along many of our county roads and the problems associated with multiple utilities in the right-of-way. The location of poles and guy anchors in the flowline of ditches and the insufficient burial depth of cables and pipes has become a major problem for the County Highway Department when maintaining ditches, shoulders, installing signs and other safety related items. Where sufficient right-of-way exists, utility locations shall be as shown on the standard detail sheets elsewhere in this manual.

Pole Lines:

All poles shall be located within 2'0" of the edge of right-of-way. All new pole installations and guy line locations shall be marked and notification made to the Spencer County Highway Department a minimum of 96 hours before construction begins. Field adjustments shall be made at the Superintendent or County Highway Engineer's request for poles and guy lines presenting drainage and safety problems.

Buried Cable and Utility Lines:

All buried cables and utility lines shall be located within 4'0" of the edge of the right-of-way with all pedestals being located a distance of 2'0" from the edge of right-of-way. All cables and utility lines shall be located a minimum of 48" below ground level. Any variances shall be requested in writing, and have explicit written approval by the County Highway Engineer. This requirement is needed to allow for the installation of signs, guardrails and the maintenance and reestablishment of roadside ditches. If the permittee does not install his cables or lines at this depth, he shall waive all rights to damages incurred to his lines or cables made by the Spencer County Highway Department or its contractors during its routine maintenance activities and the installation of guardrail at hazardous locations.

All Permits:

Any permittee or permittee's contractor who cuts an underground drain tile whether it appears abandoned or not shall notify the Spencer County Highway Department immediately upon cutting the tile. The permittee shall then repair the tile as directed by the inspector.

5. PERMITTED WORK IN COUNTY RIGHT-OF-WAY

- a. Definitions: The following definitions apply only to this section of the Spencer County Ordinance.
EMERGENCY: A situation where there is an immediate need to perform repair work on an existing utility service which has been interrupted or damaged and where the failure to perform such work would result in an immediate danger to life or property.

CONSTRUCTION MATERIALS: Those items commonly used in the construction of roads, buildings, landscaping and etc., including, but not limited to stone, gravel, soil, mulch, timbers, brick, block, trusses, lumber, sod and etc.

- b. All persons who desire to perform construction operations or other work within the county's right-of-way shall prior to start of construction, apply for and receive approval from the Board of Commissioners or their designee. Permit Application forms, supplied by the Board of Commissioners Office or the Highway Engineering Department and related exhibits shall be submitted to the Highway Engineering Department to be reviewed and approved by the appropriate agencies as specified by the County Commissioners.
- c. In the event of an emergency, the repairs of a utility may be undertaken without first receiving a permit. However, in an emergency situation, the entity making the emergency repairs must notify

the Spencer County Highway Department as soon as possible. In the event of an emergency during non-work hours, a faxed notification must be made to the Spencer Board of Commissioners or County Highway Engineer as soon as possible on a county supplied form. A regular permit and fee must be filed with the Spencer County Board of Commissioners or Highway Engineering Department within 72 hours of the time the work is begun in an emergency situation. Any work completed as emergency work which does not meet definition of emergency as set out in this section is a violation of this section any work completed without a permit when one is required is a violation of this section.

- d. Fees for said permits shall be paid by check or money order made payable to the "Spencer County Treasurer" and shall be submitted with the permit application. Fees for the permits shall be in the following amounts.
- (1) Underground Constructing, grading, trenching or excavation parallel to the road, Seventy dollars (\$70) for each four hundred (400) feet of continuous construction or part thereof
 - (2) For Open cuts across or within the roadway, five dollars (\$5) per foot of excavation with a one hundred dollar (\$100) minimum. In the event the applicant specifies that he will be using flowable fill as a backfill material so that density testing is required, the fee, will be three dollars and fifty cents (\$3.50) per foot of excavation. This decision must be made prior to the approval of the permit in order for the reduced fee to apply.
 - (3) For boring or pushes under the roadway, fifty dollars (\$50) per bore or push, which includes a maximum of two pit excavations. Each pit excavation shall not exceed five hundred (500) feet.
 - (4) For placement of new poles and/or installation of new overhead pole lines and/or removal of existing pole lines, one hundred dollars (\$100) for each one thousand (1,000) feet of continuous pole line or fraction of one thousand (1,000) feet. A permit is not required when replacing or removing a single pole in an existing location due to damage to the pole or when installing new lines or making a utility connection on an existing pole line. However, when a permit is not required, all other applicable sections of this code (including but not limited to traffic control) still apply.
 - (5) For one tap pit less than one-hundred (100) square feet in area, including up to one bore or push under the road from the tap pit, fifty dollars (\$50). This permit does not include any cutting of the pavement surface. Pits greater than one hundred (100) square feet shall be permitted as an excavation and a bore under item (2).
 - (6) Fee for enforcement of violations: Whenever any individual or corporation is found to be in violation of any section of this Ordinance, an inspection fee will be required to cover the costs of enforcing this Ordinance. This fee shall be \$100 per day per violation of each section of this ordinance. This fee is due and payable upon notification by the Spencer County Highway Department, Spencer County Highway Engineering Department or Spencer County Commissioners. Failure to pay the fee within 14 days of notification will result in the withholding of all future permits to the individual or corporation and immediate submittal of the violation to the Spencer County Prosecutor for a judgment in accordance with Indiana Code. At the discretion of the County Highway Engineer or Board of Commissioners, this fee may be waived for an initial violation of this Ordinance provided the violator immediately corrects his violation. Appeal of this fee may be made to the Spencer County Board of Commissioners at their regularly scheduled meeting. If a formal appeal is made through the

Spencer County Highway Department, the fee amount due will not be required to be paid until the Spencer County Board of Commissioners have acted upon the appeal.

- (7) Fees may be waived: By the Board of Commissioners or the County Highway Engineer. For construction or utility work in conjunction with a City, County, State or Federal Road or infrastructure projects, if the applicant is the respective agency and the project is of benefit to the citizens of Spencer County. A permit shall be filed and approved.
- e. Any applicant, as required by the Spencer County Board of Commissioners or County Highway Engineer, shall provide a permit bond running to "The Board of Commissioners of Spencer County" in an amount designated by the County Commissioners. The bond shall not expire in less than one year. Prior to the release of any permit bond, the Highway Superintendent or County Highway Engineer will require an inspection during and at the completion of construction. The bond shall insure that the applicant on the permit will complete all permitted work in accordance with the requirements of this section of the Spencer County Ordinance and any other applicable sections of the Spencer County Ordinance. In the event, a permit bond expires or the Bond Company cancels the permit bond. All work authorized by any permits already issued using the permit bond have not been completed and the Spencer County Board of Commissioners have not released the bond, then said bond shall become immediately due and payable to the Spencer County Board of Commissioners. Applicants who desire to do so may post an annual or continuous permit bond for utility work in an amount designated by the County Commissioners. An annual or continuous permit bond may not be used for drive or public road approach permits. In the event, an annual or continuous permit bond expires or the Bond Company cancels the annual or continuous permit bond. All work authorized by any permits already issued using the annual or continuous permit bond have not been completed and the Spencer County Board of Commissioners have not released the bond, then said bond shall become immediately due and payable to the Spencer County Commissioners. At the discretion of the Highway Engineer a maintenance bond may be required from the applicant as a condition of releasing the permit bond. A utility company having a certificate of authority or franchise issued by the Indiana Utility Regulatory Commission and who has a continuous bond on file with Spencer County Board of Commissioners may use, in lieu of the maintenance bond when approved by the County Highway Engineer. All permits issued for cutting of a road shall have a three- (3) year maintenance bond, which cannot be canceled prior to three years from completion of the road cut. If the bond company sends notice that the bond is being canceled at any time prior to three (3) years the total amount of the bond shall become immediately due and payable to the Spencer County Board of Commissioners and no additional permits will be issued to the applicant.
- f. The recipient of a permit and/or anyone working within the right-of-way of a county road shall comply with the following terms.
- (1) Construction materials shall conform to the requirements of the Standard Specifications of The Indiana Department of Transportation, and shall be approved by the County Highway Engineer.
- (2) Traffic control devices and flaggers shall be used to regulate traffic safety if construction affects the flow of traffic as set out in the Indiana Manual on Uniform Traffic Control Devices and as required by the County Highway Engineer or the Spencer County Commissioners. Traffic will be maintained at all times. If a road closing is approved, in accordance with Spencer County's Ordinance. The permit holder will mark and maintain any detours approved by the County Highway Superintendent or County Highway Engineer and notify all appropriate agencies of the time and location of the closing a minimum of 48 hours prior to closing.
- (3) Utility trench backfill for cuts of the roadway, #53 aggregate shall be placed and compacted in lifts under the supervision of the County Highway Engineer or at the discretion of the County Highway Engineer it shall be tested for density by an independent testing laboratory. Flowable mortar in accordance with the specifications of the Spencer County Engineer maybe used as an alternate to #53 aggregate.

- (4) Pavement shall be restored to a smooth permanent surface as shown in Spencer County Standards or as required by the Spencer County Highway Engineer. The permit holder shall maintain temporary patches in a smooth and safe condition until permanent patching is accomplished. Temporary patching shall not exceed thirty (30) days, except during the period from November 15th through April 15th each year when the materials are not available. During this time period the applicant may leave a temporary patch in place, but a routine inspection shall be made by the applicant to insure the temporary patch is in good condition. The applicant may be granted an extension beyond the thirty-(30) day requirement at the Highway Department's discretion upon request with a justification. Aggregate surfaces shall be restored in kind and shall be stabilized to prevent loose material, which constitute safety hazards.
- (5) The filling of a curb or gutter line of the drainage system of any road, with any material or pipe is strictly prohibited. Any curb modification shall require driveway permit.
- (6) Tree trimming operations do not require a permit to work in the right-of-way, however they are bound by all of the requirements of this subsection and are required to obtain a road obstruction permit if they desire to close a road.
- (7) All sod, swale, side, ditches, shoulders and other improvements within the right-of-way which is disturbed by any work or construction within the right-of-way shall be repaired or replaced in a condition equal to or better than they were prior to the work or construction. Materials used in the repair of any disturbed area. The County Highway Engineer or the County Commissioners shall approve the method used to make repairs. The proof of the condition of these items prior to work shall be the contractors or the individual completing the work responsibility.
- (8) Anyone who cuts or damages an underdrain tile, storm sewer pipe or culvert pipe whether it appears abandoned or not shall notify the Spencer County Highway Engineer immediately upon cutting the tile or pipe. The person cutting the tile or pipe shall then repair the tile or pipe as directed by the Superintendent or County Highway Engineer. If the tile or pipe is a regulated drain then immediate notification and repair approval shall also be made to the Spencer County Surveyor or his designated representative.
- (9) Loading or unloading any equipment on a county road which results in an undue or unsafe restriction of traffic or damage to the pavement is not allowed and is a violation of this section.
- (10) Crossing or traveling on a county road with a tracked vehicle directly in contact with the pavement surface is a violation of this section. Crossing or traveling along the road will be allowed provided suitable protection (timbers, tires, and etc.) is provided for the pavement. No damage will be allowed to the pavement, structures, grading, drainage and etc. Failure to use adequate protection or damage to the pavement is a violation of this section.
- (11) Dragging or depositing mud or soil onto a county road from any site is not allowed and is a violation of this section. Cleanup of any mud or soil on the road due to accessing a site shall be immediately after the material is deposited. A site having a high volume of vehicles accessing a muddy site shall have full time cleanup crew or install cleaning mechanisms in accordance with county approved best management practices.
- (12) Allowing erosion of soils from a site onto a county roadway or into a county roadway drainage system is a violation of this section. Anyone excavating on county right-of-way or adjacent to county right-of-way shall protect the county right-of-way from deposit of eroded materials in accordance with county approved best management practices.
- (13) Depositing any construction materials or the cleaning of any equipment directly or indirectly into any county roadway drainage system is not allowed and is a violation of this section.
- (14) Installation of sprinkler systems within the right-of-way is not allowed. Any sprinkler

systems installed within the right-of-way prior to the date of this ordinance shall be relocated at the owners expense within seven (7) calendar days when requested by the Spencer County Highway Engineer or Superintendent for road improvements purposes or due to drainage problems.

(15) An individual or agency who has directed work to be done in the right-of-way shall be jointly and separately liable for all actions taken by his contractor or representative.

(16) Failure to stop work for any violation of this section of the code when so directed by an authorized representative of the Spencer County Highway Department is a violation of this section.

(17) Failures to provide traffic control provide a safe work site (safety fencing, shoring or etc.) or comply with the conditions set out in a permit or as so directed by an authorized representative of the Spencer County Highway Department is a violation of this section.

(18) A permit is not required for surfacing or resurfacing of a driveway provided it does not change any drainage flows and does not expand the width of the existing drive. The maintenance of any drive and its associated culverts will remain the responsibility of the applicant or subsequent property owner and must be maintained by the property owner in a manner which does not interfere with the use of the right-of-way for its dedicated purpose.

(19) Any improvements installed by permit or without permit within the public right-of-way are done so at the risk of the property owner or entity installing the improvements. Whenever the Spencer County Highway Engineer or Superintendent determines a change is required or maintenance is needed in the improvements, the applicant, subsequent property owner or entity that owns the improvements must make the changes upon notification and within a reasonable time limit at the owner's expenses.

(20) No improvements can be made by any permit applicant which obstructs or impedes an existing farm field entrance or an existing farm field loading area without permission from the property owner. It is the applicant's responsibility to comply with this requirement.

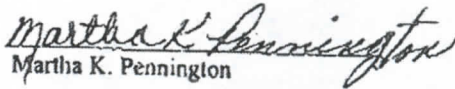
g. After the application is approved, the County Highway Engineer shall issue a permit. Once work begins the permit or a photocopy of the permit must be on site for inspection. The County Highway Engineer shall be notified at least twenty-four (24) hours in advance of construction and when construction is complete in accordance with the procedures of the Spencer County Highway Department. An approved permit will expire one (1) year from the date of application or 60 days prior to the expiration of the permit bond covering the work being applied for, whichever comes first.

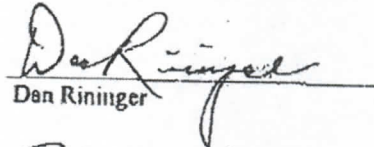
h. A person who violates this Ordinance commits an ordinance violation. When a violation occurs, the contractor, company or individual performing the work and the owner of the facilities being installed or construction shall be held in violation either jointly or separately. Each subsection violated and each day for which the violation remains shall be separate violation. A judgment of up to Two Thousand Five Hundred Dollars (\$2,500) and restitution of all damages shall be entered against a person who violates this Ordinance per violation per day.

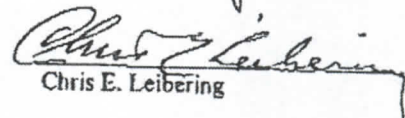
This Ordinance adopted this 4 day of January, 1999, by the action of the Board of Commissioners of Spencer County. This ordinance shall go into effect sixty days from the date of adoption, except that the exemptions for road approaches and excavation work as part of an approved set of road construction plans shall go into effect immediately.

Attest:
Doris K. Hughes
Auditor

Board of Commissioners
County of Spencer


Martha K. Pennington


Dan Rininger


Chris E. Leiberling